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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Reporters Without Borders, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 February 1998]

Situation concerning freedom of the press

1. More than half of the 185 States Members of the United Nations do not respect the freedom of the press. In the past 10 years, over 600 journalists have been killed worldwide in the exercise of their profession.

2. Since January 1992, 57 journalists have been killed in Algeria in attacks attributed to armed groups claiming to be acting in the name of Islam. No independent inquiry has been conducted into these murders even though serious doubts persist about the persons who ordered some of them. At the same time, two journalists "disappeared" after being abducted by the forces of law and order. The authorities are also responsible for at least 24 cases of imprisonment of journalists, 40 cases of detentions and 58 measures involving seizures, suspensions or bans.

3. In Belarus, after the coming to power of President Lukashenka, the situation regarding freedom of the press further deteriorated in 1997. An opposition newspaper, Svaboda, has been banned, one Russian television correspondent has been expelled and a second correspondent incarcerated.

4. In Burma, the authorities prohibit all independent media. Six journalists are still being detained in very harsh conditions and have reportedly been subjected to ill-treatment.

5. In 1997, the Cameroon of Paul Biya remains the most repressive French-speaking country of Africa in terms of press freedom. An arsenal of laws has made it possible to incarcerate seven journalists. Three other journalists have been sentenced to prison terms in 1998, including the director of the independent newspaper Le Messager, Pius Njawé, who was sentenced to two years' imprisonment for an article reporting on the President's heart condition.

6. In Asia, one must not forget China, where 11 journalists are still imprisoned, having been sentenced to terms ranging from three years to life imprisonment. The press remains under the orders of the Chinese Communist Party.

7. The change of power at the head of the former Zaire, on 17 May 1997, has brought no change for the press: the many detentions and expulsions of foreign journalists by President Mobutu have been succeeded by cases of incarceration and acts of repression by the Government of Laurent-Désiré Kabila. Seven journalists were imprisoned in the Democratic Republic of the Congo, and at least 20 others detained in 1997. On 25 November, 10 journalists were whipped by police officers for covering a press conference given by the leader of an opposition movement. During the month of December, military personnel broke into and looted the offices of the magazine Elima, and took over the premises of the monthly Le Moniteur de l'Economie.

8. Cuba is the only Latin American country where there is no press freedom. The journalists of the independent news agencies - which still have no legal status - are treated as "traitors of their homeland" and imprisoned. In 1997, Lorenzo Paez Nuñez, of the Independent Press Bureau, was sentenced to 18 months' imprisonment for "defamation of the police" and "contempt". Bernardo Arévalo Padrón, founder of the Línea Sur Press agency, was sentenced

to six years' imprisonment for describing President Fidel Castro as a "liar". Also in 1997, 13 journalists were detained and 28 interrogated or threatened by the State security services. Five others were forced into exile after having been imprisoned.

9. In Ethiopia, 20 journalists are currently in detention and as many others have been released on bail. The four main private weeklies have been closed by the Government of Meles Zenawi. Many independent journalists are forced into exile.

10. In Mexico, 3 journalists were killed, 30 others were assaulted and 11 threatened in 1997. Most of them had been investigating cases of corruption, drug trafficking or abuse of power. Paradoxically, although the Mexican political system is becoming more democratic, the number of assaults and threats against journalists continues to grow. Politicians, military personnel in the areas of conflict (Chiapas and Guerrero), public servants and drug traffickers have attacked journalists on numerous occasions. Despite the recommendations made to the local and federal authorities by the National Human Rights Commission, the perpetrators of such crimes continue to enjoy the same impunity: five killings of journalists since 1995 remain unpunished to this day.

11. In Nigeria, the regime of General Sani Abacha clamped down still further on the private press in 1997: 90 journalists were arrested, assaulted or threatened, four times as many as in the previous year. As of 31 January 1998, 13 journalists had been imprisoned, 4 of them being sentenced to 15 years' imprisonment. This deterioration of the situation runs counter to the process of democratic transition that the regime of General Sani Abacha says it wants to complete by August 1998, in time for the presidential election.

12. Turkey still has the worst record for attacks on the freedom of the press. In 1997 alone, about 20 journalists were tortured in custody. More than 250 of their colleagues were detained or imprisoned for varying lengths of time. Reporters Without Borders is furthermore investigating the case of 91 journalists who are all currently in prison.

13. Viet Nam does not respect freedom of the press. Controls on the press were tightened by the Vietnamese authorities in 1997. Six journalists are being held in labour camps, mostly in the same quarters as common criminals. Doan Viet Hoat, who formerly managed the magazine Dien Dan Tu Do, was sentenced to 15 years' imprisonment in 1990, after being held in detention, without charge or trial, between 1976 and 1988. He is incarcerated in the Thanh Cam prison for "serious offenders", isolated in a ramshackle hut and forbidden to read, write or even communicate with other prisoners. His crime was to have peacefully advocated democracy and respect for fundamental rights. His sight has reportedly deteriorated greatly because he has been unable to obtain new glasses. He has received no visits since January 1996. One of the other journalists currently in detention in Viet Nam is none other than the former editor-in-chief of the official economic newspaper Doanh Nghiep. Nguyen Hoang Linh made the mistake, in the spring of 1997, of reporting cases of misappropriation by the Vietnamese customs authorities. On that account, he has been imprisoned without trial since 8 October 1997.

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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by the Commission for the Defense of Human Rights in Central America, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[10 February 1998]

National institutions for the promotion and protection of human rights in Central America

1. The Commission for the Defense of Human Rights in Central America (CODEHUCA), as a regional human rights organization of civil society in Central America, continues to believe that it is necessary and important to monitor the work of the offices of the human rights procurators and ombudsmen in the isthmus, bearing in mind the role which these bodies have to play in defending the rights of the inhabitants of the region. Today, all the Central American countries, with the exception of Belize, have such institutions. Those in El Salvador and Costa Rica are perhaps the ones that work most effectively.

2. The Office of the Human Rights Procurator in El Salvador, and especially Mrs. Victoria Velázquez de Avilés, continue to be noted not only for their work but also for the recognition of the Salvadoran people, which ranks the Office as the State institution with the greatest credibility, even having more credibility than human rights NGOs themselves. There is a strong fear among civil society that, as the years pass, the purposes for which the Procurator's Office was established may be lost sight of and forgotten. It is feared with good reason that the institution may be eroded and transformed into yet another bureaucratic institution. CODEHUCA considers that it is the task both of the Salvadoran people and of the staff members of the institution concerned to make sure that no one loses sight of the original objective of the Procurator's Office.

3. For its part, the Office of the Ombudsman in Costa Rica, with a very small staff (81 persons), has been carrying out excellent work. Many of its recommendations are heeded by the State institutions to which they are directed. It is pursuing its recognized work with complete independence and impartiality and has resources that facilitate its task. It must be pointed out, however, that the change of ombudsman has caused some uncertainty and concern among several segments of civil society in Costa Rica, especially because of the way in which the new incumbent was appointed. The appointment was marked by political bargaining. As we have indicated on other occasions, the qualities of the ombudsperson, Mrs. Sandra Piszk, are in no way called into question. Our criticism is rather directed at the politicization of an appointment that must be characterized essentially by impartiality.

4. This concern extends beyond the boundaries of Costa Rica, since we are speaking of a deficiency that affects all the region's institutions. The danger is that such politicization, whether now or in the future, may primarily serve the interests of one party or one small political group at the expense of the interests of society as a whole. This would undermine the role of the institution, which has emerged in the region as a relevant and necessary development.

5. The Procurator's Office of Guatemala has had a lower standing in the past two years. The decisions of Mr. García Laguardia on the raising of electricity charges, the delay in issuing important decisions on controversial civil and political rights issues and the excessive concentration of activities in his own hands have meant that the institution has lost credibility among the public. In addition, the inefficiency of the judiciary and the prosecution service, together with the virtual lack of any investigation by the Procurator's Office, ultimately make it impossible to

identify the perpetrators of human rights violations. In 1997 the Procurator's Office received more criticism than praise from various segments of Guatemalan society. This contrasts particularly with the role it should be playing at an important stage in the life of Guatemala, with regard to the peace process and concerning the improved enjoyment and full realization of human rights. We therefore conclude that the Procurator's Office needs more resources to meet the requirements of its support services and its policy of outreach.

6. The Office of the Human Rights Procurator in Nicaragua is one of the latest institutions to have been created, and the consultation process, if not the most broad and participatory, certainly received the greatest attention. The various segments of Nicaraguan society took part in developing the legal framework for the institution.

7. The Office of the Commissioner for the Defence of Human Rights in Honduras is performing a good role. Although the process of setting up the institution was quite long, its work is beginning to be viewed positively by the various segments of Honduran society. The Commissioner's statements appear to be having results and his tough stance against impunity has brought him closer to the organizations defending human rights in Honduras. However, the fact of not issuing decisions means that the Commissioner has become a spokesman on the grave political and social problems in Honduras, but is not focusing on individual cases. CODEHUCA hopes that, with the entry into force of the Organization Act, this Office will begin to issue decisions on specific cases.

8. The Office of the Ombudsman in Panama began operating in the middle of last year, but did not open its doors until January 1998. In this connection, we wish simply to express our satisfaction with the fact that Panama, like other Central American countries, now has such a supervisory institution.

9. At the regional level, CODEHUCA is concerned that the Consultative Committee of the Central American Council of Procurators may have become a purely formal and ineffective body. It should be recalled that the Committee was set up to support the Central American Council of Procurators and to advise it on specific regional human rights issues.

10. The gap between the work of these supervisory bodies and the organizations of civil society remains very large. There is virtually no coordination or consultation between them - and, when there is, it is isolated and unsystematic - although their work pursues the same goals. As already indicated, we consider that closer and more effective coordination is needed between these State bodies and the organizations of civil society in order to conduct joint monitoring of human rights violations and work towards the further promotion of human rights. CODEHUCA has reiterated the need for the procurators and the organizations of civil society to work together to share their expertise and seek joint solutions to the problems encountered.

11. We have indicated that for improved efficiency the procurators must enjoy the greatest possible political and operational independence. Independence does not, of course, mean that they have to be dissociated from the State. The laws on the respective procurators' offices set limits to the powers of the legislative and executive branches. We still have the impression that, with the exception of the Office of the Ombudsman in

Costa Rica, these institutions enjoy very little State support in the region, as can be seen from their inadequate budgets and the lack of political will to act on their recommendations.

12. Furthermore, the staff of the procurators' offices should be drawn from the society to which they belong, in particular including people with experience of work in the field of human rights. The human rights NGOs have large and experienced staff who could help to revitalize the work of the procurators' offices.

13. CODEHUCA, as a regional body which has campaigned for almost two decades for the protection and promotion of human rights in Central America, and aware of the strengths and weaknesses of the procurators' offices of the region and of the political and economic context within which they operate, wishes to make the following recommendations:

(a) The international community must continue to support these institutions; its contribution is necessary and essential;

(b) Central American governments must appreciate more fully the importance of these supervisory bodies for strengthening democracy and the rule of law in their countries;

(c) Procurators should further decentralize their work and improve the training of staff in the local support services.

(d) Closer relations should be established between the various organizations of civil society and the procurators, since both would benefit from the sharing of expertise;

(e) There must be a commitment on the part of the procurators and their staff and of civil society to ensure that the purposes for which these institutions were established are not forgotten in the course of time;

(f) The procurators and ombudsmen must make the Central American Council of Procurators a real and not a formal entity, a vital and active institution, not a bureaucratic one. It would thus be able to make a significant and meaningful contribution to the process of regional integration.

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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FIFTY-FOURTH SESSION

Written statement submitted by Human Rights Advocates, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[5 March 1998]

Trafficking in women and children

1. Trafficking in women and children is an epidemic problem and prohibited by multiple international conventions. Both the Commission on Human Rights and the General Assembly have noted with concern the increasing number of women and girls who are being victimized by traffickers, and recognized the need to eliminate all forms of sexual violence and sexual trafficking. Over 1 million women and children are trafficked into prostitution. Sex tourism yields 5 billion dollars per year. Traffickers transport women and children from their home and families, confiscate their passports, and rape their victims to subdue and "break" them. Many victims are hesitant to report the abuse to authorities, often not speaking the language and fearing reprisals for illegal migration. Trafficking in women and children, though prevalent in developing and industrial countries alike, manifests itself in different ways. One difference is that many States criminalize prostitution and others do not. Women's advocates disagree whether prostitution should be criminalized. The following are examples of trafficking in different regions.

Latin America

2. In Latin America, children who are already forced to earn a living on the streets are vulnerable to pimps who exploit them for profit and offer them "protection" which masks abuse, often violence, and drug dependency.

3. Thousands of Ecuadorian children are smuggled through Colombia and brought into Venezuela to work in virtual slavery conditions as prostitutes. The problem is attributed to corruption among Ecuadorian and Venezuelan officials, who are accused by many as covering-up. 1/

4. A growing number of "sex tourists" are arriving in Central America. One Australian and one American were accused of trafficking a young Honduran boy to the United States to sexually abuse him. 2/ Two Americans were arrested in Costa Rica for operating a sex tourism operation in which foreign visitors were collected at the airport and taken to a brothel in Los Angeles. 3/

Asia

5. In Asia, young girls are sold by impoverished families to pimps, believing the girls will be better with pimps than starving, and that with the money they receive they can better care for other children.

6. Thailand is a major destination for human traffickers, who procure victims for the sex trade from China, Myanmar, the Lao People's Democratic Republic and Cambodia. This business generates 11.2 to 13.5 billion dollars a year, equivalent to 50 to 60 per cent of Thailand's 1995 national budget. 4/ Thai law criminalizes child prostitution and penalizes violators, but corruption of many policemen, officials and politicians means weak law enforcement. 5/ Many enforcement officials have a financial investment in the sex trade or receive bribes. Despite occasional crackdowns, there is no consistent and adequate implementation of Thai law. 6/

7. Cambodia has an estimated 35,000 sex workers, nearly 35 per cent of whom are under the age of 17. Prostitutes are supplied to brothels within Cambodia

and also smuggled into Thailand in a highly-organized, lucrative business. 7/ An estimated 40 to 50 per cent of Cambodian prostitutes have AIDS. Though recent laws prohibit trafficking in people, including fines and imprisonment for pimps and brothel owners, 8/ no arrests have been made. UNICEF says that "there is little doubt that law-enforcement officials are involved in practically every stage of the trafficking process ... the legal system is politically weak and cannot really hold powerful people to account for their activities." 9/

8. Chinese women and girls are trafficked both intra-State and inter-State, as abductors transport them across the country to sell into forced marriages and prostitution. 10/ Women are generally sold far away from home to make escape and detection difficult. An estimated 80,000 women are abducted and sold each year. 11/ While there are penalties for the abduction and the sale of women, there are many legal loopholes, and the sale of persons by family members is not prohibited. Another problem is the lack of enforcement, blamed on corruption, weakness of local government or indifference. Some local officials do not view trafficking as a serious crime and take no action against it. Others are actively involved or accept bribes from traffickers to keep quiet. 12/

Africa

9. In Africa, civil strife and failed structural adjustment strategies have weakened family structures and support. Often adults and children are left with few alternatives to exchanging sex for food, money and even relief supplies.

10. In Kenya where 85 per cent of the population lives in rural areas with no food or access to basic amenities, and 50 per cent of the population lives below the poverty line, children at eight years old are trafficked to the province of Nyanza as sex workers. 13/ Illicit trade of children in Nyanza is apparently on the rise to accommodate Asian businessmen and high-ranking executives. Child prostitution is attributed to poverty, broken families, and the AIDS virus that orphaned many children.

Eastern Europe

11. In Eastern Europe, where political and economic upheavals, runaway inflation and increasing economic disparities have made communities and children vulnerable, child prostitution is on the rise. 14/

12. Thousands of women from the former Soviet Union are trafficked each year to Macao, Dubai, Germany, Israel and the United States as striptease dancers and prostitutes. Many are attractive and well educated, but prefer to take their chances abroad rather than face unemployment and poverty in their own countries. Low-end members of the Russian mafia dominate the trade, but high-powered mafia elite skim a commission in exchange for protection and connections with law enforcement. Reports allege serious government complicity in the business of trafficking women abroad, including Russia's Interior Ministry, Federal Security Service and Ministry of Foreign Affairs. 15/

United States

13. In the United States, between 100,000 and 300,000 children are sexually exploited through prostitution and pornography. Unlike other parts of the world, poverty is not the main contributing factor. Many victims are runaway children from inner cities or farming families in rural and small-town areas in Mid-Eastern states who have suffered incest, rape and abuse at home and are promised work as models and actresses by flashy pimps involved in small trafficking groups. 16/

14. Many children are also trafficked from Mexico, sexually abused and discarded. Other women and children are trafficked into the United States for work in clandestine brothels, domestic service, and garment sweatshops. These destitute victims are easy targets for other circles of crime, as they don't speak the language and fear deportation.

15. The United States has many federal and state laws criminalizing trafficking and prostitution, but these laws treat even child prostitutes as perpetrators rather than victims. In addition to being shunned by society as shameful and dirty, the legal system throws prostitutes into jail or deports them rather than healing these victims of violence and offering rehabilitation and counselling.

Conclusions and recommendations

16. Despite differences in economic, political and social systems of countries where trafficking of women and children exists, there are common problems. Inadequacies in enforcement include active involvement of law enforcement and government officials in the business, overlooking illegal activities or covering up, and giving low priority to investigating and preventing violence against women. For example, the United States "war on drugs" allocates significant funds to combat drug trafficking, but no such programme exists for sex trafficking.

17. Despite numerous treaties and extensive attention by United Nations bodies, the lack of enforcement mechanisms in international law remains a significant obstacle to eradicating trafficking.

18. Optional protocols on child trafficking should be considered for the Convention on the Rights of the Child and for the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. These optional protocols would provide redress for individual complaints from victims of trafficking and supervision of States parties' implementation of anti-trafficking provisions.

19. HRA commends the work of the Working Group on Contemporary Forms of Slavery, and recommends that the Secretariat follow the suggestion, contained in the Working Group's report on its twenty-first session, (E/CN.4/Sub.2/1996/24 and Corr.1) to establish a data bank, by subject and by country. HRA also recommends that the Working Group individualize its

questionnaires to Governments, recording both the questions and the responses in the database to ensure consistency with addressing and responding to areas of concern in certain States.

20. Lastly, HRA urges the Commission to encourage coordination of existing monitoring mechanisms. Further, in order to provide a mechanism for redress of human rights abuses, the Special Rapporteur on violence against women or the Special Rapporteur on the sale of children, child prostitution and child pornography should be given authority to take urgent action to address allegations of specific violations and to investigate reliable allegations of governmental inaction with respect to those violations.

Notes

1/ Estrella Gutierrez, Rights: child traffic in Venezuela. Tip of the iceberg, International Press Service, 11 January 1998.

2/ Bruce Harris, Casa Alianza warns that Central America is new sex tourism destination, Review of Last Minute News, 18 November 1997.

3/ Ibid.

4/ Authorities hope new law will cut down on human trafficking, Agence France-Presse, 30 November 1997.

5/ Patricia D. Levan, "Curtailing Thailand's child prostitution through an international conscience". American University Journal of International Law and Policy, vol. 9, No. 869, 1994, p. 895.

6/ Ibid., p. 896.

7/ Tricia Fitzgerald, "Child sex trade: a worrying problem", Phnom Penh Post, vol. 16, 1-14 December 1996.

8/ 1996 Law on the Suppression of Kidnapping and Trafficking/Sale of Human Persons and Exploitation of Human Persons.

9/ Debra Boyce, Rescued prostitutes present theatre of life, Gemini News Service, 30 July 1996.

10/ "Caught between tradition and the State: violations of the human rights of Chinese women", Women's Rights Law Report, vol. 17, No. 285, 1996, p. 289.

11/ Ibid.

12/ Ibid.

13/ Child prostitution rampant despite outcry, Africa News Service, 23 June 1997.

14/ For information on Poland, see report of Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1997/47 and Add.1-4).

15/ Vladimir Isachenkov, Trafficking in women flourishing in former Soviet Bloc, Associated Press, 7 November 1997.

16/ Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/1997/95/Add.2).

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COMMISSION ON HUMAN RIGHTS
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Item 16 of the provisional agenda

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Written statement submitted by the Caucasians United for Reparations and Emancipation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1295 (XLIV).

[11 February 1998]

Prayer for the protection of the human rights of the African national minority in the United States of America: The so-called African Americans

1. Recognizing that the African national minority in the United States of America has suffered destruction of its ethnic, linguistic, religious and national identity and has been forced to assimilate into the ruling white majority culture: the so-called African Americans made up approximately 12 per cent of the United States population. They record a 443-year history of slavery, apartheid and racial discrimination, including 222 years under the authority of the United States Government which conferred citizenship upon them without consultation or democratic choice. The United States Government officially participated in slavery and in forced cultural assimilation. United States state governments officially participated in slavery, apartheid and racial discrimination. The single attempt to repair the damage of these crimes has been an affirmative action programme which gave preference not only to African Americans, but to other minorities, women and disabled. Due to the opposition of white male Americans and the resulting action of the United States Supreme Court, affirmative action as a special measure to repair past human rights violations against African Americans has ceased after 30 years.

2. Knowing that in 1994 a respected African American leader, the Honorable Silis Muhammad, delivered a communication to the United Nations on behalf of African Americans under communications procedure 1503: this document offered evidence of human rights crimes, with particular reference to ethnocide and forced assimilation, and it prayed for United Nations assistance and called for reparations. Regretting that the Working Group on Communications determined that this document failed to show a consistent pattern of gross violations of human rights, and asserting that the enslavement and forced assimilation of African Americans is a part of world history, known to the United Nations, our organization requests that the aforementioned communication, dated 18 March, 1994 and entitled "Petition for U.N. Assistance Under Resolution 1503 on behalf of African Americans in the U.S.A.", be examined by the Commission on Human Rights, and its prayer taken into consideration. This communication can be consulted at the Secretariat.

3. Understanding that the most destructive violation of the human rights of African Americans remains ethnocide and forced assimilation into an alien culture: despite the attempts of American media to portray "happy American blacks" and "wealthy black athletes" the culture of the majority of African Americans is a post-slavery culture. Many African Americans have long sought a separate identity, and they have long sought to distinguish themselves from the majority population through unique musical and cultural development. Some African Americans have tried to identify with the African continent and have found that their long absence and forced removal have made them unable to re-connect. African Americans are, in essence, a homeless nation without identity, exploited as a servant class. Increasingly, they are being forced into criminal or suspect status.

4. Realizing that African Americans have been represented by a government of their own design for 67 years, with citizenry submitting to their own courts of law and protected by their own military: the Honorable Silis

Muhammad, C.E.O. of the Lost-Found Nation of Islam, is moving toward independence from the United States Government. The Lost-Found Nation of Islam seeks reparations and self-determination. The struggle of African Americans has been a long one, representing over 400 years of resistance and uprisings against repression, torture, duplicity, lynching and murder, political intimidation, harassment and disruption and forced assimilation. That this struggle is finally reaching its culminating stages is evidenced by the submission of the aforementioned petition to the United Nations under communications procedure 1503, and the movement of the Lost-Found Nation of Islam toward independence.

5. In full consideration of the above, we believe that the African American people suffer from gross, systematic and persistent violations of their human rights, particularly their right to self-determination and the right to remedy for past and ongoing gross human rights violations. Our organization is concerned with the protection of the human rights of the African National Minority in the United States of America. We encourage awareness of the potential for racial conflict and violent suppression of those who are seeking independence and reparations. We urge the Commission on Human Rights to assist African Americans in their efforts to recover from official United States policies of enslavement, apartheid and forced assimilation.

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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 March 1998]

GE.98-11058 (E)

1. Human Rights Watch wishes to highlight for the Commission problems of torture and grave abuse in custody that we investigated in the course of the past year.

2. In **Peru**, while the incidence of extrajudicial executions and forced disappearances has declined dramatically in recent years, the torture of detainees suspected of common or politically motivated crimes has continued. Methods of torture include beatings, near-drownings, electric shock, and rape. Most cases of torture have been attributed to Peru's anti-terrorism police and the military. Although President Alberto Fujimori has stated that he does not condone torture, his administration has made no effort to curtail it. To the contrary, his Government has weakened constitutional guarantees and acted to undermine the autonomy and effectiveness of government bodies established to protect constitutional rights. It has also attacked and intimidated the press for carrying stories critical of its human rights record. The Congress, controlled by President Fujimori's Change 90 party, has failed to enact legislation that would designate torture as a distinct offence within the Penal Code, carrying a commensurate level of punishment.

3. Most torture cases go unpunished. Those responsible have only been held accountable when a case invokes a widespread domestic and/or international outcry, as in the case of Leonor La Rosa, an army intelligence agent whose superiors twice tortured her in 1997 when they suspected she had leaked information to the press. In May 1977, La Rosa's torturers were sentenced by a military court to eight years imprisonment.

4. In **Turkey**, the practice of torture is particularly prevalent among the anti-terror police, whose methods include hanging by the arms in a variety of positions; electric shock; the squeezing of testicles or breasts; isolation; and stripping the suspect naked. Such practices are facilitated by the general climate of impunity in which the anti-terror police operate as well as by laws that permit the anti-terror police to hold detainees without access to a lawyer for up to 4 days and hold security detainees without arraignment for up to 7 days, which can be extended to 10 days in the state of emergency zone in the south-east. In December, Prime Minister Yilmaz issued a circular to security forces forbidding torture and abuse, but similar circulars by former Governments have had little result. Human Rights Watch welcomes Turkey's invitation to the Special Rapporteur on torture to visit Turkey in 1998.

5. We want to call the attention of Commission members to the serious problems of torture and physical abuse in pre-trial detention in **Armenia, Azerbaijan and Georgia**. In **Armenia**, physical abuse and beating are routine during criminal investigations, and caused the deaths of at least two police detainees in 1997. Physical abuse in pre-trial detention facilities to compel confessions or extract false testimony is a widespread and routine practice throughout **Azerbaijan**, while torture of security detainees has become systematized in some facilities such as the Baku City police station. And despite recent welcome actions by **Georgia's** parliament to strengthen the judiciary and enact a revised code of criminal procedure, in practice detainees continue to suffer physical abuse.

6. Torture claims untold victims throughout the **Russian Federation**, usually during the first few hours of police detention. Police officers beat detainees almost as a standard procedure, force plastic bags and gas masks on

their heads, and sometimes apply electric shocks. The prosecutor's offices and courts generally ignore victims' complaints, adding to the atmosphere of virtually complete impunity. Confessions obtained through torture often serve as bases for convictions. The Government has so far not taken steps to establish an effective mechanism for review of torture complaints, nor has it made an effort to prosecute perpetrators, as was recommended by the Committee against Torture in 1997.

7. Human Rights Watch urges the Commission to call on the Russian Federation to implement the recommendations of the Committee against Torture and halt police abuse and torture.

8. In **Uzbekistan**, Human Rights Watch has documented a pattern of physical abuse and torture of detainees by police of the Ministry of Internal Affairs and Officers serving under the National Security Service (the successor to the KGB). Despite explicit legal prohibitions under Uzbekistan law, beatings ar a standard law-enforcement technique used to extract confessions, extort money, or intimidate dissidents. Brutality is so unchecked that victims almost never bring charges for fear of retribution in custody or of being denied access to a lawyer, who might witness evidence of abuse. Physical abuse can also be extreme, leading to deaths in police custody. Human Rights Watch recommends an investigation by the Special Rapporteur on torture in Uzbekistan as soon as possible.

9. Human Rights Watch is deeply concerned about the chronic physical abuse of prisoners in **Brazil's** prisons, jails and police lock-ups, as well as the severe overcrowding of such facilities. Violations of prisoners' rights to life and physical integrity are particularly frequent after prison rebellions or escape attempts, as prisoners are beaten or even killed in a violent and unjustifiable form of summary "punishment".

10. In July, in the State of Paraíba, military police invaded a prison after inmates took the prison director hostage. Eight prisoners were killed, with coroners' reports and eyewitness testimony establishing that at least seven were summarily executed after the hostages had been freed and the police had the situation under control. In December, in the State of Ceará, a group of inmates in the State's largest prison took four hostages, including a military police lieutenant. In capturing prisoners who escaped during the incident, the police killed seven of them, several of whom had already surrendered.

11. There have been innumerable other recent incidents in which military and civil police have physically abused inmates held in the country's penal institutions. Typically, when called into a prison or police lock-up after a disturbance, special police squads require detainees to strip naked; they then proceed to beat them with police batons, wood sticks and/or iron bars, often making the prisoners run through a gauntlet. The most recent prisoner riots in Brazil have been intimately related to poor detention conditions and abusive treatment. Detainees held in overcrowded police lock-ups, where riots are particularly frequent, very often demand only transfer to prison, which is where the vast majority of them should be held according to Brazilian law. Human Rights Watch urges the Commission to call on Brazil to improve conditions in its penal facilities and, in particular, to reduce overcrowding, as well as to ensure that incidents of physical abuse of prisoners are investigated and, where appropriate, prosecuted.

12. In the **United States**, Human Rights Watch is concerned about the conditions of confinement and treatment of the more than 13,000 individuals held daily by the United States Immigration and Naturalization Service (INS) in detention centres and jails around the country. They are asylum seekers, undocumented immigrants and individuals detained after serving criminal sentences, many of whom face indefinite detention. In particular, we are concerned by the INS's use of local jails, where nearly half of all administrative INS detainees are held in inappropriate criminal and punitive environments. Conditions there fall short of international standards for pre-trial detainees and lack INS oversight. In visits to local jails in seven States during 1997, we found that INS detainees often shared living and recreation space with convicted criminals. Medical and dental attention were extremely limited. Detainees were frequently transferred from facility to facility with no apparent consideration by the INS for location of family or legal counsel, who were often given no notice of the transfer. Staff at local jails were ill-equipped to deal with a multilingual population and most jail rules and regulations were written only in English and almost no immigration legal materials were available. Disciplinary sanctions were liberally applied to INS detainees, sometimes as a result of linguistic or cultural miscommunications. Detainees also reported instances of serious physical abuse by jail staff.

13. We recommend that the Working Group on Arbitrary Detention conduct an investigation of the situation of immigrants and asylum seekers detained in the United States.

14. Human Rights Watch continues to view with consternation the intransigence of the United States Government in addressing pervasive sexual abuse and degrading and inhumane treatment by prison guards and staff of women incarcerated in State prisons. Despite indisputable evidence of continued sexual abuse and retaliatory acts by prison officials against women who report the abuse, State governments have refused to acknowledge the problem. In virtually all States, male guards are routinely assigned to work in units housing female inmates, yet many States fail to train guards to refrain from engaging in degrading and demeaning behaviour; to respect the most basic level of privacy of the women; and to avoid sexual contact with the women. Some States have still failed to criminalize sexual contact between prison staff and prisoners. Although the United States Federal Government is charged with protecting prisoners from violations of their civil rights, no effective system exists to receive complaints and monitor State prison systems for violations. Human Rights Watch urges the Commission to call on the United States to ensure that (a) sexual contact between prison staff and prisoners is expressly criminalized; (b) all officers responsible for sexual misconduct are disciplined; (c) prison staff are trained to refrain from sexual contact with prisoners; (d) prisoners are guaranteed access to effective means for reporting sexual misconduct; (e) independent monitors, including non-governmental organizations, have access to prisons; and (f) allegations of sexual misconduct by prison staff are investigated and, where appropriate, prosecuted.

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COMMISSION ON HUMAN RIGHTS
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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 March 1998]

1. Human Rights Watch wishes to raise three important issues regarding the further promotion and encouragement of human rights and fundamental freedoms.

Creation of an international criminal court

2. Even after the establishment of the ad hoc tribunals for the former Yugoslavia and Rwanda, the ongoing atrocities in other parts of the world underscore the need for a permanent international tribunal. The General Assembly has scheduled a diplomatic conference to begin on 15 June 1998, on the treaty to create an ICC. The court will have jurisdiction over genocide, war crimes and crimes against humanity where national courts are either unwilling or unable to undertake prosecution.

3. An effective ICC has the potential to significantly enhance the enforcement of human rights. Not only will the court provide a forum for the victims of the three core crimes, but it will also have the effect of extending the rule of law and bringing national courts up to the standards of international law. Most importantly, a court that can end impunity for the most serious international crimes can also deter the commission of those crimes in the future.

4. The question remains whether the court will have sufficient authority to perform its functions effectively and impartially. Options in the current draft statute for the ICC threaten the independence of the court. According to one proposed provision, the prosecutor would have no power to initiate investigations on his or her own but must wait for a State to file a complaint or for the Security Council to refer a situation to the court. The prosecutor may also be barred from investigating situations being "dealt with" by the Security Council unless he or she has obtained prior approval to do so by the Council. In cases of war crimes and crimes against humanity, the court's effectiveness may be undermined by the requirement that at least three States (the State with custody over the accused, the State where the crime took place and, possibly, the State of the accused's nationality) consent to the court's jurisdiction.

5. The ICC must also be fully empowered to prosecute sexual and gender violence if it is to fulfil its mandate to end impunity for the most serious violations of international law. Toward this end, crimes of sexual and gender violence must explicitly be included in the court's jurisdiction and the ICC statute should contain legal principles and procedures that would facilitate the fair and effective prosecution of these crimes without prejudice to the accused. This is necessary because, as manifested by the records of the ad hoc tribunals, the prosecution of sexual and gender violence presents unique challenges in terms of developing appropriate investigative methods and legal theories, as well as particular difficulties in ensuring the participation and protection of victims and witnesses.

6. We appeal to the members of the Commission on Human Rights to affirm their commitment to an effective, independent and impartial international criminal court.

Strengthening of the thematic and country-specific mechanisms of the Commission on Human Rights

7. The Commission's thematic and country-specific mechanisms represent the heart of the power of the United Nations to draw attention to human rights violations worldwide and to enforce international human rights law. The Commission, over the years, has created a rich and often very effective system of special rapporteurs and working groups, designed to protect victims of human rights abuses and to publicly identify Governments alleged to have committed the abuses. The use of urgent action appeals has permitted rapid resolution of individual cases of abuse, often saving lives. The thematic mechanisms pursue a non-discriminatory approach, ensuring that human rights standards are universally applied. They have conducted on-site investigations in countries which, because of their political power, have never faced United Nations scrutiny, including all five permanent members of the Security Council. Objective reports issued by these mechanisms have raised considerably the price Governments must pay to commit human rights abuses.

8. The work of these special procedures should be promoted and strengthened, as called for in the Vienna Declaration and Programme of Action. The key to their success has been independence from the political pressures which can shape decisions within United Nations bodies. In a December 1997 statement, the High Commissioner for Human Rights, Mary Robinson, noted that such independence was essential to the completion of their two primary tasks of carefully analysing allegations of human rights violations and government information and informing the international community of their findings and making pertinent recommendations. However, the last few years have seen efforts to reduce the independence and effectiveness of the mechanisms by narrowing their mandates or limiting their ability to publicize the results of their work. The Commission has even censored the work of a rapporteur, effectively allowing political considerations to trump the objective fact-finding process.

9. This backsliding process needs to be reversed. Human Rights Watch calls on the Commission to strengthen its rich system of special procedures by:

(a) Placing the mandates of the thematic special rapporteurs and working groups on a permanent footing, i.e. by establishing all thematic mandates as open-ended. This will ensure that the promotion of human rights law as a long-term goal is undisturbed by shifting political currents;

(b) Fostering open and constructive discussion of the results of rapporteurs' investigations during the Commission's session and throughout the year;

(c) Granting the mechanisms more authority to find facts in individual cases;

(d) Encouraging the mechanisms to follow up on previous investigations and allocating resources to make such follow-up possible;

(e) Encouraging the High Commissioner for Human Rights to coordinate efforts aimed at systematic implementation of the mechanisms' recommendations;

(f) Looking to the reports of thematic mechanisms as an objective means of determining whether a country merits scrutiny under item 10 of the Commission's agenda;

(g) Barring Member States from serving on the Commission if they refuse to cooperate with the work of United Nations human rights mechanisms.

The role of ad hoc international criminal tribunals in delivering justice to victims of conflict-related sexual violence

10. Human Rights Watch remains deeply concerned about the inability of the International Criminal Tribunals for Rwanda and the former Yugoslavia to deliver substantive justice to the thousands of women who endured brutal acts of sexual violence during the two conflicts. Women victims of sexual violence have repeatedly expressed concern that stigmatization of rape victims makes them particularly vulnerable to secondary victimization within their communities if they are identified. Nonetheless, both tribunals have failed to implement sufficient measures to protect the identity of witnesses who come forward to speak with investigators in the field and give testimony at the tribunals. Furthermore, fears raised by inadequate protection for witnesses are reinforced by the failure of international forces or government authorities to apprehend alleged war criminals, many of whom remain at large, wielding political power and well positioned to retaliate against witnesses and their families. Such impunity cannot be permitted.

11. Additionally, Human Rights Watch is also concerned about lack of access to justice and discriminatory laws which have contributed to the obstacles Rwandan and Bosnian women face in participating in the post-conflict rebuilding process. Even as they take on heightened responsibilities, particularly after the loss of their husbands, brothers, fathers and sons to the conflicts, they continue to face discrimination in their access to property or financial resources, social stigmatization resulting from rape, deteriorating physical health and intensifying poverty. Rwandan women face direct economic difficulties as a result of discriminatory customary laws. Because Rwandan women are unable to inherit property absent explicit designation as beneficiaries, thousands of widows and orphaned daughters have no legal claim to their late husbands' or fathers' property. As a result, many women have been left destitute, struggling to rebuild their lives and raise their children.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 March 1998]

GE.98-11064 (E)

1. Human Rights Watch wishes to call the attention of the United Nations Commission on Human Rights to the grave human rights situation in the following countries.

Algeria

2. Both the Government of Algeria and armed groups operating in the country are responsible for gross and systematic violations of human rights. Since 1996, the most salient abuses have been the massacres of hundreds of men, women and children living in rural and semi-rural areas. The assailants have used barbaric methods to kill their victims and are reported to have abducted and raped hundreds of women, many of whom remain unaccounted for up to this day.

3. These massacres, most or all of which appear to have been carried out by armed groups, are only one part of a grim human rights picture. The Algerian security forces are responsible for the practice of torture in interrogation centres, for carrying out summary executions, and for "disappearing" hundreds, if not thousands of individuals. Security forces practise abuses in a climate of impunity: the Algerian authorities have produced no detailed evidence to show that any security force member has faced punishment for abusive behaviour.

4. In the face of the ongoing abuses and the restrictions on access to information, Human Rights Watch, together with Amnesty International, the International Human Rights Federation and Reporters without Borders, called on 15 October for a special session of the Commission on Human Rights, and for an international investigation to ascertain the facts, examine allegations of responsibility and make recommendations in respect of the massacres and other abuses by all sides. Algerian authorities denounced this call and rejected calls for an international investigation into human rights abuses. Human Rights Watch also supported the immediate dispatch to Algeria of the United Nations Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions. But while accepting their visit in principle, Algerian authorities have yet to provide a date for their visit.

5. In light of the gravity of the human rights situation in Algeria and the continuing refusal of the Algerian Government to allow unfettered access for human rights investigators, Human Rights Watch calls on the Commission on Human Rights to appoint a Special Rapporteur on the human rights situation in Algeria. The Special Rapporteur should be provided with sufficient resources to investigate, in consultation with the special mechanisms of the Commission, the gross and systematic violations of human rights committed by the Government of Algeria and by armed opposition groups and - because of the urgency of the situation - to submit an interim report with his or her findings and recommendations to the General Assembly no later than 30 June 1998, as well as a final report to the fifty-fifth session of the Commission.

Myanmar

6. Human Rights Watch is concerned about the deteriorating respect for human rights in Myanmar which has not abated since the formation in November 1997 of the new military ruling body, the State Peace and Development Council (SPDC).

7. Political parties are subject to close scrutiny and the National League for Democracy is a particular target of repression. Their officials are unable to make any public speeches and their freedom of expression, association and movement is severely restricted. There are at least 1,200 persons imprisoned for peaceful political activities, incarcerated in appalling prison conditions and labour camps. Many prominent political prisoners have been transferred to jails far from their families, making visits very difficult. Military offensives by the army in Karen State, Tenasserim Division and Shan State, and human rights abuses committed during such offensives, have caused substantial refugee outflows into neighbouring countries, in particular Thailand.

8. We call on the Commission to express its deep concern at the deterioration of respect for human rights in Myanmar and request the SPDC urgently to agree to a visit by the Special Rapporteur on Myanmar, who has been denied access to the country since his appointment in 1996. The Commission should also call on the SPDC to cooperate with the International Labour Organization, whose commissioners of inquiry on forced labour in Myanmar have been denied access to the country. Human Rights Watch has gathered testimonies which demonstrate the continued widespread incidence of forced labour, directly contradicting SPDC claims that the practice was discontinued three years ago.

China

9. Human rights in China continue to be violated on a large scale, with few safeguards against arbitrary detention, severe restrictions on freedom of expression, especially as it relates to public criticism of the political system or the role of the Party, and tight controls on freedom of association and religion. Contact with foreign news organizations is still enough to arouse the suspicions of the public security agencies. The prison system remains closed, and there are grave concerns about the well-being of prisoners, both common and political. Workers in State enterprises and joint ventures alike have no effective channels for raising grievances in a way that could provide some redress against arbitrary actions of managers or generally hazardous working conditions. China continues to detain the world's youngest political prisoner the eight-year-old Panchen Lama, among thousands of other political and religious prisoners. A resolution addressing China's human rights record would be important as an indication of the Commission's ability to address the human rights of all countries, no matter how large or economically and strategically important.

Democratic Republic of the Congo

10. After seven months of civil war, the Alliance of Democratic Forces for the Liberation of Congo (ADFL) ousted the corrupt and repressive regime of

President Mobutu in May 1997. However, the human rights situation in the Democratic Republic of the Congo is disappointingly familiar. The new Government immediately banned all political activities other than the ADFL's, cracked down on independent journalists and harassed members of the dynamic human rights community. In mid-January 1998, President Kabila's Government warned that the political ban will not be lifted before elections slated for April 1999, and that politicians who challenge the ban will be brought before a military court. Almost a year after the takeover, security forces continue to disperse peaceful political meetings and to raid and ransack newspaper premises. The Government has thus far limited participation in the constitutional drafting process to ADFL members, and its only effective initiative to engage the public in the process of transition was abruptly halted with the suspension of the National Reconstruction Conference.

11. As reports mounted during the war that rebel forces were massacring thousands of Rwandan refugees - reports since confirmed by Human Rights Watch - the Commission directed a joint investigative team, led by Special Rapporteur Roberto Garretón, to investigate the massacres and to report to the General Assembly and to the Commission. That mandate is still blocked as the ADFL has denied the joint team all access. Since August, the Government's intransigence has effectively prevented the alternative team formed by the United Nations Secretary-General from functioning. Human Rights Watch has obtained evidence that several witnesses have been detained after meeting with the team.

12. In light of the ongoing abuses and the Government's failure to cooperate with the United Nations investigative missions, Human Rights Watch urges the Commission to strongly condemn the ongoing human rights violations in the Democratic Republic of the Congo and to extend the mandate of the Special Rapporteur as well as that of the joint investigative team.

Sudan

13. Human rights in the Sudan deteriorated in 1997/98. The 15-year-old civil war continued, with the Islamist Government targeting the non-Muslim south as well as the mixed areas of the Nuba Mountains and the east, where Muslims rejected politicized Islam. Government forces (including ex-rebels) displaced civilians, looted crops and animals, burned villages and - with the exception of five rebels threatened with the punishment of amputation - took no prisoners. In a continued campaign to restrict United Nations relief access to areas affected by war, the Government in February 1998 banned relief aid for more than 100,000 southerners recently displaced by fighting in and near the town of Wau.

14. Civil and political rights in areas controlled by the Government have been severely violated. A third mass conspiracy trial in one year - for crimes punishable by death - is under way and defendants swore their statements had been elicited by torture. Security forces held and mistreated others, including defence attorneys, in prolonged arbitrary detention.

15. Women have been targeted for repression. At least two women prostitutes, tried for adultery, were sentenced to death. The Government used public order courts to impose a quick punishment of flogging on dissenters

before appeal could be heard. Authorities even pulled "improperly dressed" women university students from a bus and flogged them. Women protesting conscription were beaten by Sudan Security, then flogged.

16. the Government has been backing the Lord's Resistance Army (LRA), Ugandan rebels who kidnap and torture Ugandan children. Those not murdered are conscripted into the LRA and trained inside Sudan.

17. The rebel Sudan People's Liberation Army (SPLA) released 2,000 captured Government soldiers - after others died from lack of food and medical care. The SPLA commander in charge of troops who pillaged, raped and summarily executed civilians after the capture of the southern garrison town of Yei was removed but, except for a few examples, impunity reigned. The SPLA continued in some areas to forcibly conscript boys and steal civilians' food.

18. Human Rights Watch calls on the Commission to act urgently on its own 1997 resolution requiring immediate "priority to the placement of human rights field officers" in the area, to monitor both Government and rebel abuses.

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